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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
CHUNG, JASON J	
ART UNIT	**PAPER NUMBER**
2617	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/729,811	CANDELORE ET AL.	
	Examiner	Art Unit	
	Jason J. Chung	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 May 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-27 and 29-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-27 and 29-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/11/05 have been fully considered but they are not persuasive. The applicant argues on pages 8-9 that the references are non-analogous art. In response to applicant's argument that Cave is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, preventing a roll over in a digital counting system is notoriously well known in various types of electronic devices and thus is not considered non-analogous from a television set top box.

The applicant argues on page 8-9 that Lawler in view of Cave fails to disclose preventing a rollover since the counter operates from zero to ten and reverts back to zero. The examiner respectfully disagrees with this assertion. The reference explicitly recites that a rollover is prevented from a count of 15 to a count of 0. Moreover, the disabling of the gate does not revert the counts back to zero, but rather just stops the counting process.

The applicant further argues the dependent claims on pages 9 and 10 of the response. The dependent claims necessarily include the limitations of the claims from which they depend. Accordingly, these claims necessarily are rejected over the cited references for at least the reasons set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 20, 23-25, 27, 29, 32-34, 36-38, 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US Patent # 5,758,259) in view of Cave (US Patent # 4,045,816).

Regarding claim 25, Lawler discloses detecting a tuning event (viewing history) where a channel is continuously tuned in for over a selected period of time (column 5, line 52-column 6, line 21); the claim does not recite how long the selected period of time is, thus the examiner broadly interprets the selected period of time to be any arbitrary length of time.

Lawler discloses maintaining relative statistics on one or more items related to the tuning event (column 7, line 62-column 8, line 45).

Lawler discloses creating automatically a list of favorites based on the maintained relative statistics (column 4, lines 43-57).

Lawler discloses decreasing count values by dropping lowest counts (column 8, lines 35-44). Lawler is silent as to preventing rollover of a count value through adjustment of the count value...next incremented. Cave discloses preventing rollover of a count value through adjustment of the count value reaching a predetermined value and being reset when the count value is next incremented (column 13, lines 31-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler to have preventing

rollover of a count value through adjustment of the count value...next incremented as taught by Cave in order to prevent the circuit from resetting to zero.

Regarding claim 20, Lawler discloses detecting a selected channel or program (column 8, lines 56-62).

Regarding claim 23, Lawler discloses the system uses a server and network (column 10, lines 30-59). Lawler discloses each viewer station includes at least one television (column 3, lines 33-38) and users login by entering a PIN into each station and each user receives the appropriate information from the central node (column 7, lines 35-61). Neither Lawler nor Cave discloses the user being able to access their list from more than one device. The examiner takes Official Notice that accessing a set top box with more than one remote control (device) is notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave to allow multiple remote controls to control the set top terminal in order to have a backup remote in case one malfunctions.

Regarding claim 24, Lawler discloses creating automatically the list of favorites using a changing time scale as the list matures (column 9, lines 20-32).

Regarding claim 27, Lawler discloses a theme item and actor item (column 8, lines 5-34).

Regarding claim 29, the limitations in claim 29 have been met in claim 20 rejection.

Regarding claim 32, the limitations in claim 32 have been met in claim 23 rejection.

Regarding claim 33, the limitations in claim 33 have been met in claim 24 rejection.

Regarding claim 34, the limitations in claim 34 have been met in claim 25 rejection. Lawler discloses the additional limitation of a display (column 5, lines 20-30).

Regarding claim 36, the limitations in claim 36 have been met in claim 27 rejection.

Regarding claim 37, the limitations in claim 37 have been met in claim 25 rejection.

Regarding claim 38, the limitations in claim 38 have been met in claim 25 rejection.

Regarding claim 48, Lawler discloses a theme item and actor item (column 8, lines 5-34).

Regarding claim 49, the limitations in claim 49 have been met in claim 25 rejection.

Regarding claim 50, the limitations in claim 50 have been met in claim 20 rejection.

Regarding claim 51, the limitations in claim 51 have been met in claim 48 rejection.

2. Claims 21, 30, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Cave in further view of Perlman (US Patent # 5,583,576).

Regarding claim 21, as disclosed in claim 25 rejection, Lawler and Cave discloses the list of favorites.

Neither Lawler nor Cave discloses consecutive weekly programs. Perlman discloses a schedule listing consecutive weekly programs separated by time (column 9, line 65-column 10, line 26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave to have the EPG display consecutive weekly programs as taught by Perlman so the user can see if the weekly programs scheduled in the future are shown at the same normal broadcast time the following week.

Regarding claim 30, the limitations in claim 30 have been met in claim 21 rejection.

Regarding claim 39, the limitations in claim 39 have been met in claim 21 rejection.

3. Claims 22, 31, 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Cave in further view of Levitan (US Patent # 5,534,911).

Regarding claim 22, as disclosed in claim 25 rejection, Lawler and Cave disclose the list of favorites.

Neither Lawler nor Cave discloses auto tuning without user interaction. Levitan discloses autotuning without user interaction (column 3, line 35-column 4, line 3) for the benefit of passing the time and stress of choice to the computer (column 1, lines 30-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave to have an automatic tuner without user interaction as taught by Levitan in order to provide the time and stress of choice of available programs to the computer.

Regarding claim 31, the limitations in claim 31 have been met in claim 22 rejections.

Regarding claim 46, the limitations in claim 46 have been met in claim 22 rejections.

4. Claims 26, 35, 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Cave in further view of Zahavi (US Patent # 5,410,367).

Regarding claim 26, as disclosed in claim 25 rejection, Lawler and Cave discloses a list of favorites.

Neither Lawler nor Cave discloses providing an alert if a program is about to be shown. Zahavi discloses the providing an alert if an item in the list of favorites (column 4, lines 52-56) is about to be shown (column 5, lines 33-56) for the benefit of preventing the user missing the beginning of a program or an entire program (column 1, lines 27-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler to have an alert if a program is about to start as taught by Zahavi so the user does not miss the beginning of or even an entire television program they had the intention of watching.

Regarding claim 35, the limitations in claim 35 have been met in claim 26 rejections.

Regarding claim 47, the limitations in claim 47 have been met in claim 26 rejections.

5. Claims 40-42, 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Cave in further view of Graves (US Patent # 5,410,344).

Regarding claim 40, neither Lawler nor Cave discloses identifying the amount of time a channel was viewed over a predetermined time interval. Graves discloses identifying the amount of time (field 39-length: figure 3) a channel was viewed over a predetermined time interval (column 8, line 52-column 9, line 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave to identify the amount of time a channel was viewed over a predetermined time interval as taught by Graves in order to gather a personal preference file based on viewing time.

Regarding claim 41, neither Lawler nor Cave discloses multiplying relative statistics...as part of the list of favorites. Graves discloses multiplying relative statistics (A0-An) for each item of the one or more items by a weighting factor (w) assigned to the item (column 8, lines 5-51). Graves discloses ranking a predetermined number of items based on the highest weighted values as part of the list of favorites (column 6, lines 32-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave to have multiplying relative statistics...as part of the list of favorites as taught by Graves in order to rank preferred programs.

Regarding claim 42, Graves discloses multiplying of the relative statistics includes multiplying a count value (A0-An) for each item of the one or more items by the weighting factor (w) associated with each item (column 8, lines 5-51).

Regarding claims 53-54, the limitations in claims 53-54 have been met in claims 40-42 rejections.

6. Claims 43-45, 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Cave in further view of Hooley (US Patent # 6,373,955).

Regarding claim 43, neither Lawler nor Cave discloses preventing rollover by subtraction of a predetermined value. Hooley discloses preventing rollover by adjusting the relative statistics of each item of the one or more items through subtraction of a predetermined value from each count value associated with each item of the one or more items (column 20, lines 3-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave to prevent rollover by adjusting the relative statistics of each item of the one or more items through subtraction of a predetermined value from each count value associated with each item of the one or more items as taught by Hooley in order to gradually adjust the counts without having to rollover.

Regarding claim 44, Hooley discloses preventing rollover by subtracting as disclosed in claim 43 rejection. Neither Lawler, Cave, nor Hooley discloses preventing rollover by subtracting a predetermined percentage. The examiner takes Official Notice that a percentage of counts taken instead of a count down are notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave in further view of Hooley to subtract a percentage of counts in order to subtract the same ratio from a plurality of counts.

Regarding claim 45, Hooley discloses preventing rollover by subtracting as disclosed in claim 43 rejection. Neither Lawler, Cave, nor Hooley discloses preventing rollover by

multiplying a predetermined percentage between 0 and 1. The examiner takes Official Notice that a multiplying by a ratio to take counts instead of a count down is notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave in further view of Hooley to multiply a predetermined percentage between 0 and 1 in order to subtract the same ratio from a plurality of counts.

Regarding claims 55-57, the limitations in claims 55-57 have been met in claims 43-45 rejections.

7. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Cave in further view of Amano (US Patent # 5,323,240).

Regarding claim 52, neither Lawler nor Cave discloses a favorite key of a remote controller. Amano discloses the list of favorites (column 4, lines 8-13) is accessible by depressing a favorite key (column 2, lines 37-41) of a remote controller. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler in view of Cave to have the list of favorites is accessible by depressing a favorite key of a remote controller as taught by Amano in order to facilitate tuning to a favorite channel.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Chung whose telephone number is (571) 272-7292. The examiner can normally be reached on M-F, 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJC

VIVEK SRIVASTAVA
PRIMARY EXAMINER